

**DRAFT Chapter 173-181 WAC
CONTINGENCY PLAN, DRILL PROGRAM AND RESPONSE CONTRACTOR
STANDARDS**

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Part One

WAC 173-181- Purpose. The purpose of this chapter is to establish the development and use of vessel and facility oil spill contingency plan requirements, drill program and response contractor standards which, when followed, will:

- (1) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;
- (2) Ensure continual readiness of equipment and personnel;
- (3) Support coordination with state, federal, and other contingency plans; and
- (4) Provide for the protection of Washington waters, natural, cultural and significant economic resources from the impacts of oil spills.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-010, filed 11/5/91, effective 12/6/91.]

WAC 173-181- Authority. RCW 88.48.060, RCW 90.48.371, 90.48.372, 90.48.373, 90.48.374, 90.48.375, 90.48.376, 90.48.377, and 90.48.380, as recodified by section 1115, chapter 200, Laws of 1991, provide statutory authority for the contingency plan preparation and review requirements and response contractor standards established by this chapter.

WAC 173-181- Definitions. (1) Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection, taking into consideration processes that are developed, or could feasibly be developed given overall reasonable expenditures on research and development, and processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to commercial fish processing vessels and freighters.

"Contract or other approved means" means

(a) A written contract between a plan holder and a primary response contractor that identifies and ensures the availability of specified personnel and equipment within stipulated response times in specified oil spill response zones and sub-zones; or

(d) a written document that identifies personnel, equipment and services capable of being provided by the primary response contractor within stipulated response times in specified oil spill response planning zones or sub-zones; acknowledges that the oil spill removal organization intends to commit the identified resources in the event of an oil spill; or proof of cooperative membership.

"Covered vessel" means a tank vessel, cargo vessel, or passenger vessel required to participate in this regulation.

Dedicated - equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are approved.

(7) "Director" means the director of the state of Washington department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

EDRC means the calculated capacity of oil recovery devices that accounts for limiting factors such as daylight, weather, sea state, encounter rate and emulsified oil in the recovered material.

Ecology means the state of Washington department of ecology.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that (both):

(i) Transfers oil in bulk to or from a tank vessel or pipeline; and

(ii) Is used for producing, storing, handling, transferring, processing, or transporting oil in

bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a tank covered vessel, in a single transaction.

Geographic Response Plans means protection strategies ...

(10) "Gross ton" means a vessel's approximate volume as defined under Title 46, United States Code of Federal Regulations, Part 69.

(11) "Interim storage site" means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges, and other vehicles used to store recovered oil or oily waste until transport begins.

(12) "Liquefied petroleum gas" means petroleum gas converted to a liquid state by pressure and cooling, including but not limited to natural gas, butane, and propane.

(13) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(14) "Maximum extent practicable" means the highest level of effectiveness that can be achieved through staffing levels, training procedures, and best achievable technology. In determining what is the maximum extent practicable, the director shall consider the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.

Mobilization is defined as the time it takes to get the resources assembled and prepared at the staging site. Mobilization begins when notification ends and ends when the resources are ready to move off-site

(15) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

Non-dedicated - those response resources listed by a PRC for oil spill response activities that are not dedicated response resources. Non-dedicated resources will be counted at a 1 to 2 ratio.

"Northwest Area Contingency Plan. (NWACP)" means the regional emergency response plan developed in accordance with federal requirements. In Washington State, the NWACP serves as the statewide master oil and hazardous substance contingency plan required by RCW 90.56.060.

(16) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility, any part of which is located in, on, or under any land of the state, other than submerged land.

(17) "Oil" or "oils" means naturally occurring liquid hydrocarbons at atmospheric temperature

and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(18) "Oily waste" means oil contaminated waste resulting from an oil spill or oil spill response operations.

(19) "Onshore facility" means any facility, as defined in subsection (9) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

Operating Environments means the conditions in which response equipment is designed to function.

(20)(a) "Owner or operator" means:

in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

(i) In the case of an onshore or offshore facility, any person owning or operating the facility; and

(ii) In the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(21) "Passenger vessel" means a ship of greater than three hundred with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(22) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(23) "Pipeline" means, for the purposes of subsection (9)(a)(i) of this section, a pipeline connected to a marine facility, and not owned or operated by the facility referred to in subsection (9)(a) of this section.

(24) "Plan" means oil spill response, cleanup, and disposal contingency plan.

Plan holder – A facility or vessel company who has submitted an approved oil spill contingency plan to the Washington State Department of Ecology.

"Planning Standards" means Ecology's standards for reviewing oil spill contingency plans. The planning standards represent the Department's best general estimate of types and quantities of personnel and equipment required to ensure adequate response to any location where a plan holder may impact.

(25) "Primary response contractor" means a response contractor that is directly responsible to a contingency plan holder, either by a contract or written agreement.

(26) "Response contractor" means an individual, organization, association, or cooperative that provides or intends to provide equipment and/or personnel for oil spill containment, cleanup, and/or removal activities.

Regional Response List a regional equipment list established and maintained by spill response equipment owners in the northwest area.

(27) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.
(28) "Spill" means an unauthorized discharge of oil which enters waters of the state.
(29) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

- (a) Operates on the waters of the state; or
- (b) Transfers oil in a port or place subject to the jurisdiction of this state.

Umbrella plan – single plan that cover multiple vessels or facilities.

(30) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(31) "Worst case spill" means:

- (a) For an offshore facility, the largest possible spill considering storage, production, and transfer capacity complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations); or
- (b) For an onshore facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations), unless the department determines that a larger volume is more appropriate given a particular facility's site characteristics and storage, production, and transfer capacity Or
- (C) For a vessel, a spill of the vessel's entire cargo and fuel complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations) or
- (d) For pipelines – the largest volume determined from three different methods, complicated by adverse weather conditions: 1) the pipeline's maximum release time, plus the maximum shutdown response time multiplied by the maximum flow rate per hour, plus the largest line drainage volume after shutdown; 2) the maximum historic discharge from the pipeline; and 3) the largest single breakout tank or battery of breakout tanks without a single secondary containment system. Each operator shall determine the worst case discharge and provide the methodology, including calculations, used to arrive at the volume.

WRIA Water Resource Inventory Area as defined in Chapter 173-500 Washington Administrative Code

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-030, filed 11/5/91, effective 12/6/91.]

WAC 173-181- Applicability. (1) Oil spill response contingency plans must be prepared, submitted, and used pursuant to requirements in this chapter, for

- (a) Tank vessels; and
- (b) Cargo vessels and passenger vessels of three hundred or more gross tons operating on waters of the state;
- (c) Onshore and offshore facilities.

(2) Response contractors must apply and be approved by the Ecology before they may serve as primary response contractors for a vessel or facility contingency plan.

(3) For those sections of contingency plans which address liquified petroleum gases, the department may excuse plan holders from meeting requirements in this chapter that are not applicable to spill response for liquified petroleum gases due to their physical properties.

(4) Contingency plans are not required for dedicated spill response vessels, which are those

vessels that are dedicated to conducting response activities for an oil spill incident exclusively.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-035, filed 11/5/91, effective 12/6/91.]

Part Two

WAC 173-181- Plan Submission.

Covered vessels and facilities must submit a plan to Ecology no less than 65 days prior to beginning operations in Washington or on Washington waters. Plans are approved for five years. A single, umbrella plan may be submitted for multiple vessels or facilities, provided that the plan contents meet the requirements in this chapter for each vessel or facility.

For tank vessels, a plan may be submitted by:

- The owner or operator, or
- The owner or operator of the facility at which the tank vessel(s) will be unloading its cargo, or
- A Washington state nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member, or
- A Primary Response Contractor contractually obligated to provide containment and cleanup services to a tank vessel(s).

For non-tank vessels, a plan may be submitted by:

- The owner or operator, or
- The agent for the vessel resident in this state, or
- A Washington state nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member, or
- A Primary Response Contractor contractually obligated to provide containment and cleanup services for covered vessel(s).

For facilities, a plan may be submitted by:

- The owner or operator, or
- A Primary Response Contractor approved by Ecology and contractually obligated to provide containment and cleanup services.

A contingency plan prepared for the federal government or another state that equals or exceeds the requirements of this chapter may be accepted by Ecology.

WAC 173-181- Phase in language for this rule (Note: there will be phase in language that will be developed once the committee has fully advised us, and we have a final draft rule, and we have a clear understanding of the impact of the proposed changes).

WAC 173-181- Plan Implementation. (1) Plan holders, including those covered under umbrella plans, are required to execute the Washington approved plan throughout the entire spill response. A decision to use a different plan must be approved by the state and federal on-scene coordinators. Guidance on this requirement is found in the NWACP.

(2) The plan holder must receive approval from Ecology before any major aspect of the spill response is conducted in a manner contrary to the plan unless such actions are necessary to

protect human health and safety, or must be performed immediately in response to unforeseen conditions to avoid additional environmental damage, or the plan holder has been directed to perform such actions by the state and federal on-scene coordinators.

(3) In order to ensure implementation of the plan, copies must be kept in conspicuous and accessible locations, and must be immediately available to the initial incident commander.

WAC 173-181- Plan preparation. (1) Plans must be prepared and tested to demonstrate plan holder capability, to the maximum extent practicable, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, including small chronic spills and worst case spills.

(2) Plans should be prepared and maintained to maximize their usefulness during a spill. Information should be readily accessible and plans should contain job aids, diagrams and checklists for maximum usability.

(3) Plans will be divided into a system of numbered, tabbed chapters, sections and appendices.

(4) Each plan will include a detailed table of contents based on chapter, section, and appendix numbers and titles, as well as tables and figures. Appendices may be used to provide supplemental background and documentation information.

(5) Plans shall be formatted to allow replacement of pages with revisions without requiring replacement of the entire plan.

[Statutory Authority: RCW 90.48.035, 91-22-087 (Order 91-12), § 173-181-045, filed 11/5/91, effective 12/6/91.]

WAC 173-181- Requirement for the Field Document (1) Each plan must contain a field document which provides time critical information on spill assessment, notifications and key response operations for the initial emergency phase of a spill. At a minimum, the field document shall contain

- (a) The procedures to detect, assess and document the presence and size of a spill;
- (b) Spill notification procedures and a call out list. The requirements for notification and call out procedures are described in WAC 173-181-?; and
- (c) A checklist that presents key steps necessary to cleanup a spill from the facility or vessel, listed in a logical progression of response activities in the field during a spill.

(2) The field document shall be available to all appropriate personnel. Each covered vessel covered by the plan shall possess a copy of the field document on board and keep it in a conspicuous and accessible location. Umbrella vessel plans shall describe procedures to ensure that all vessels are provided the field document prior to entering Washington waters.

The plan shall list the locations where field documents are kept, in addition to the document contained in the plan.

WAC 173-181- Administrative requirements for Plan. (1) Some administrative requirements may be peripheral to critical emergency response information, but are necessary for evaluation of plan adequacy. Administrative information may be kept in appendices in order to make the plan more useful during spills.

(2) Each plan shall contain a submittal agreement that is signed by the owner or operator, or a designee with authority to bind the plan holder, corporation which:

- (a) Includes the name, address, electronic mail and web page address if applicable, and phone

number of the submitting party;

(b) Verifies acceptance of the plan, including any incorporated contingency plans or documents,

(c) Commits to the use of the plan and the training of personnel to implement the plan, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and

(d) For facilities, includes the name, location, type and address of the facility, starting date of operations, types of oil(s) handled, and oil volume capacity.

(e) For vessels, includes the vessel's name, the name, location, and address of the owner or operator, official identification code or call sign, country of registry, common ports of call in Washington waters, type of oil(s) handled, oil volume capacity, expected period of operation in state waters.

(3) Washington state nonprofit organizations established for the purpose of providing umbrella plan coverage must maintain accurate enrollment lists in lieu of providing vessels names, call signs and country of registry. These lists must be made available to Ecology upon request.

(4) Each plan shall describe the plan's purpose, including the federal or state requirements met by the plan, as well as the scope of the plan, including the area of operations covered by the plan and the geographic area that is at risk from a worst case spill from the facility covered by the plan. For vessels, the geographic area consists of each planning zone that the vessel transits.

(a) For facilities, the geographic area may be determined through an analysis of numerous and representative potential worst case spill trajectories (through 48 hours). Trajectories defining the scope of the plan should be based on adverse conditions, winds from varied directions (seasonal), area specific tidal currents and/or river stages. Alternatively the facility plan holder may use methodology for planning distances as described by federal regulations using state worst case spill volumes.

(b) Facility plans must list the types, physical properties, and amounts of oil handled. The plan shall include a written description and map indicating site topography, storm water and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage, and transfer sites and operations.

(c) Vessel plans must list the types, physical properties, and amounts of oil handled. Each vessel plans must also include a written description and diagram indicating cargo, fuel, and ballast tanks and piping, power plants, and other oil storage and transfer sites and operations. Washington state nonprofit organizations established for the purpose of providing umbrella plan coverage need not provide the description and diagram information.

(4) Each plan shall describe the size of the worst case spill.

(a) For transmission pipelines, more than one worst case spill volume for each line section on the entire pipeline may be submitted to Ecology for consideration. The size of the worst case spill may be dependent on the location of pump stations, key block valves, geographic considerations, or volume of the largest breakout tank.

(b) For vessels transiting more than one planning zone, if vessel operations differ in each zone, a worst case volume for each zone may be submitted to Ecology for consideration.

(c) For multiple facilities under a single plan, more than one worst case spill volume is needed.

(5) Each plan shall include a log sheet to record revisions and updates. The log sheet should show a record of the section amended, including the date of the amendment, verification that

Ecology was notified and the initials of the individual making the change. A description of the amendment and its purpose shall also be included in the log sheet, or filed as an amendment letter and included immediately after the log sheet.

(6) Each plan must contain a cross reference table reflecting the locations in the plan of each component required by this regulation.

(7) Plan holders must demonstrate the ability to meet planning standards through contracts with PRCs. The plan shall state that contractor's name, address, phone number, or other means of contact at any time of the day. Copies of written contracts, or other approved agreements with primary response contractors shall be available for inspection, if requested by the department. For mutual aid agreements that a plan holder relies on to meet the planning standards, the plan shall include a copy of the agreement or describe the terms of that document in the plan. If a plan holder relies on response contractor personnel to staff ICS positions for the spill management team, then the contract must specifically identify that commitment.

(8) Each plan shall list all other plans that are relied on for spill response and describe how coordination will occur. It is essential that facility plan provisions for facility-vessel oil transfers do not conflict with the provisions of vessel contingency plans. Plans shall state which plan should be designated as the lead document for vessel-facility transfer spills.

(9) Each plan shall briefly describe its relation to all applicable industry, local, state, regional, and federal government response plans. This requirement may be satisfied by a flow chart that illustrates the relationship of other oil spill contingency plans to the plan holder's plan.

WAC 173-181- Plan requirements for Initial Response Actions

(1) Each plan must describe the methods and procedures used to detect an oil spill, including methods which are effective during low visibility conditions. This section should describe oil transfer procedures as they relate to the detection of spills, the timing for deck and water visual observations, mechanical and electronic systems and alarms, and the number of times per shift that each storage tank, pump, vessel, or pipeline will be checked. If plan holder prevention manuals are filed with Ecology and contain this information, the plan may make reference to those manuals.

(2) The plan should describe how the spill will be documented. Spill reports will be accepted as documentation.

(3) The plan shall describe procedures to assess the spill, and the plan holder's method to determine the incident size and location, based on oil type and conditions. Each plan shall describe procedures to conduct air monitoring and protect the health and safety of oil spill response workers, volunteers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear, and designating a safety officer position shall be addressed. Guidance for this requirement can be found in the NWACP.

(7) The plan shall describe initial methods to minimize the magnitude of the spill and any structural damage which may increase the quantity of oil spilled, including

(a) Location of resources and personnel available for initial containment of a spill.

(b) For vessels, procedures shall include methods to achieve vessel stability and prevent further vessel damage, slow or stop leaks from pipes, fuel tanks, fuel lines, and achieve emergency shutdown during oil transfers. If plan holder prevention manuals are filed with Ecology and contain this information, the plan may make reference to those manuals.

(d) For facilities, procedures shall include methods to slow or stop pipeline, storage tank, fuel line and other leaks, and methods to achieve immediate emergency shutdown.

(e) Describe the immediate, initial prioritized environmental protection strategies. May reference the NWACP Geographic Response Plans if applicable.

WAC 173-181- Notification and Call-Out Procedures (1) Each plan shall describe procedures which will be taken to immediately notify appropriate parties that a spill has occurred, to estimate, confirm or correct any previously reported estimated quantity or the area extent of the contamination. The notification procedures must provide the name and phone number of all required notifications to government agencies, establish a clear order of priority for notification and cite the name of a central reporting office or individual who is responsible for implementing the call out process. The plan holder must also maintain a 24 hour contact list for all spill response personnel, including name and position title. This list need not be included in the plan, but must be available for review by Ecology upon request.

(2) Facility plan holders will also address how notifications will be made when spills are to ground, ground water or into containment. Ecology may request that notification and call out contact numbers be verified during inspections and drills.

WAC 173-181- Spill Management Teams (1) Each plan shall describe the personnel (including contract personnel) available to respond to both small and worst case oil spills. The plan will include

(a) An organizational diagram depicting the chain of command for both small and worst case spills. At a minimum, the plan shall list down to the Incident Command System unit level, one primary and one alternate person trained to lead each position depicted in the NWACP standard ICS organizational chart.

(b) The plan shall provide a job description for each spill management position listed. If the plan holder follows the job descriptions depicted in the NWACP, a reference may be made rather than repeating job descriptions in the plan.

(2) The plan shall describe the process to ensure orderly transitions of command and staff, including transitions between shift changes, local and away team personnel, vessel umbrella personnel and the vessel responsible party.

(3) The plan should address the type and frequency of training that each individual listed in a spill management position receives. Plans should identify key skill areas and the training that is required to ensure that the individual identified will be capable of performing the duties prescribed to them. It should describe how the training will be delivered to the various personnel. The training program must include NIMS ICS, NWACP, GRPs, Company Oil Spill Contingency plan and worker health and safety as appropriate. The program must also include periodic announced and unannounced exercises. This participation should approximate the actual roles and responsibilities of individual specified in the plan. New employees should complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

(4) If the plan holder intends to use volunteers to assist in spill response operations, the plan shall address the training requirements for volunteers, and may reference the NWACP policy on the use of volunteers. Volunteer procedures for wildlife rescue shall comply with rules adopted by the Washington department of fish and wildlife.

WAC 173-181- Response Equipment (1) Each plan shall provide information concerning the equipment to be used during spill response.

(a) For equipment owned or operated by the PRC, the plan holder may reference the contractor's PRC application if approved by Ecology.

(b) For equipment owned or operated by the plan holder, the list shall meet the same requirements under WAC 173-181-092, 093, 094. The plan holder shall develop a maintenance schedule for equipment and maintain the records for at least three years. These records shall be made available if requested by Ecology for inspection, and

(4) If a plan relies on equipment provided through mutual aid agreements, list applicable equipment.

(5) Each plan shall describe the communication system used for response operations including radios and telephones. ICS form 205 may be used to meet this requirement.

WAC 173-18- Response Strategies (1) Each plan shall describe detailed methods to track and contain spilled oil, enhance recovery and removal operations, protect environmental and significant economic resources, and dispose of recovered oil. The plan must include

(a) Visual and equipment surveillance methods used to detect and track the extent and movement of the spill, including as applicable tracking buoys, trajectory modeling, aerial overflights, thermal and infrared imagery;

(b) Methods to contain and remove oil in offshore waters. The plan may refer to recovery systems described in a PRC application.

(c) Methods to contain and remove oil in near-shore waters, including shoreline protection procedures and oil diversion/pooling procedures. The plan may refer to NWACP, and

(d) Methods to contain and remove oil, including surface oil, subsurface oil, and oiled debris and vegetation, from a variety of shoreline, adjacent land, and beach types. Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations, such as impacts to sensitive shoreline habitat by heavy machinery. May reference the best practices in NWACP.

(2) If the plan holder intends to use dispersants, coagulants, bioremediants, or other chemical agents, or in-situ burning for response operations, conditions permitting, the plan shall state this and refer to guidelines found in the NWACP.

(3) Each plan shall describe how environmental protection will be achieved, including:

(a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;

(b) Priorities for sensitive area protection in the geographic area covered by the plan (may reference the GRPs). Where GRPs do not exist, the plan must describe the sensitive areas and develop strategies to protect the resources. Information must be included on natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species, physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics.

(c) Identification and of public resources, including public beaches, water intakes, drinking water supplies, and marinas;

(d) Identification of shellfish resources.

(e) Priorities for significant economic resources to be protected in the geographic area covered by the plan.

(4) Each plan shall describe interim storage including site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations. Interim storage methods and sites shall be designed to prevent contamination by recovered oil and oily wastes. Interim storage sites that require approval by local, state, or federal officials, shall include information which could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process. This description must be consistent with NWACP.

(5) Each plan shall describe the process to establish sites needed for spill response operations, including location or location criteria for a central command post(s) and equipment and personnel staging areas.

WAC 173-181- Ground water spills

Spills to the ground or to containment must be investigated promptly in order to determine whether ground water is impacted. Each facility plan shall describe procedures to promptly investigate spills to contained areas and to ground, the procedures to determine whether ground water has been impacted by a spill and the methods to be used to contain ground water spills and prevent further migration of contamination.

WAC 173-18- Wildlife Rescue and Rehabilitation The plan shall describe how rescue and rehabilitation of birds, marine mammals, and other wildlife will be conducted, in compliance with applicable local, state and federal requirements as well as the guidance found in the NWACP.

WAC 173-181- Workboats (reserved)

WAC 173-181 Emergency Response System (reserved)

WAC 173-18- Plan Logistics

The plan shall list critical logistical resources not typically contracted for through a PRC. Examples include fire and medical resources, air traffic control resources, security resources, thermal imaging, aerial support, caches of communication equipment, HVAC systems and other service and support requirements for managing a spill response.

WAC 173-18- Plan Scenarios (1) Each plan shall describe plausible, step-by-step response scenarios for both a small oil spill less than five hundred gallons and a worst case spill. ICS forms may be useful when depicting information for small spill or the initial stages of worst case spill scenarios. The worst case scenario should describe the factors and events such as cause, conditions, location, response actions, spill management team personnel and organization, equipment on-site, GRPs deployed, shorelines impacted, and recovery volumes through time. Formats may include hypothetical response logs with entries for different times and phases in the event

(2) If a plan applies to multiple vessels or facilities, each scenario description shall discuss implementation of the plan in the event of simultaneous separate spills.

WAC 173-181- Response Standards (1) Response standards are performance standards that can be tested in deployment drills and spills.

(2) For vessels, the plan holder shall provide for initial deployment of response equipment and personnel at the site of the spill, or downstream of the spill whichever is more appropriate, within two hours of the plan holder's awareness that a spill has occurred given suitable safety conditions,

(3) For facilities (except transmission pipelines), the plan holder shall provide for initial deployment of response equipment and personnel at the site of the spill, or downstream of the spill whichever is more appropriate, within one hour of the plan holder's awareness that a spill has occurred given suitable safety conditions,

(4) For transmission pipelines, the plan holder shall provide for initial deployment of response equipment and personnel at the site of the spill, or downstream of the spill whichever is more appropriate, within two hours of the plan holder's awareness that a spill has occurred given suitable safety conditions.

(5) A PRC must be capable of initiating response efforts within one hour of call-out.

WAC 173-181- Planning standards for vessels (1) Sufficient equipment, appropriate for the operating environment, and personnel must be strategically staged to respond to the vessel's worst case spill, provided suitable safety conditions exist. Ecology shall apply a planning standard when analyzing the ability of a plan holder to meet the purposes of this regulation. The standards set forth in this section are for plan preparation and review purposes. The spiller is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning standards. Equipment and personnel in addition to that under contract must be identified and a call-out procedure in place to access if the vessel has a spill that exceeds these planning standards.

(2) Each plan shall submit a matrix or spreadsheet which depicts how the plan holder will meet the planning standards. This matrix must account for boom, recovery systems, storage, and personnel to operate equipment. In addition the matrix must identify this equipment and personnel by type, quantity, home base and provider. (Note: an example will be provided in the rule guidance document.)

(3) When preparing and reviewing vessel plans, the lands and waters of the state are divided into zones and subzones.

(4) When preparing and reviewing facility plans, the lands and waters of the state are divided into four facility types. Planning standards are established for each facility type.

WAC 173-181-060 Vessel Planning standards for Zone 1

Zone 1 consists of all waters of Puget Sound, east of a line between Discovery Island and New Dungeness Light.

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------|--|
| 2 | 4 X largest vessel | |
| 6 | 20,000 feet | 2% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 5% (not to exceed 36,000 |

| | | |
|----|--------------------------------------|---------------------------------------|
| | | bbls/24 hr) |
| 24 | Additional boom as response dictates | 12% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 17% (not to exceed 60,000 bbls/24 hr) |

WAC 173-181-060 Planning standards for Zone 2

Zone 2 consists of the waters of the Strait of Juan de Fuca, west of a line between Discovery Island and New Dungeness Light and east of a line between Bonilla Point and Cape Flattery transecting Buoy J.

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------------------------|--|
| 2 | 4 X largest vessel | |
| 6 | 10,000 feet | 2% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 5% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 12% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 17% (not to exceed 60,000 bbls/24 hr) |

WAC 173-181- Planning standards for Zone 3:

Zone 3 consists of all other waters of the western coast of Washington, out to three nautical miles, west of Zone 2 and Zone 4. Zone 3 includes the waters of Grays Harbor and Willapa Bay. This zone is further divided into four subzones.

Vessels entering waters of Zone 3 are required to meet the standards for all subzones. Within subzone B, most GRP strategies require air support to transport response equipment and support the response, therefore plan holders must identify resources capable of deploying GRPs in zone 3.

A prevention credit is available for this zone. If tank ships voluntarily remain 50 miles off the coast, and tank barges and covered vessels voluntarily comply with the Area to Be Avoided standards for the Olympic Marine Sanctuary, the 12-hour requirement in Zone 3 Subzone will be extended to 15 hours. In order to receive this credit, the plan holder must commit within the plan to this voluntary transit scheme. Violation of this voluntary scheme will result in immediate application of the 12 hour standard to the plan holder.

Subzone 3A Cape Flattery to La Push

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|-----------------|--|
| | | |

| | | |
|--------------|--------------------------------------|--|
| 2 | 4 X largest vessel | |
| 6 | 10,000 feet | 2% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 5% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 12% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 17% (not to exceed 60,000 bbls/24 hr) |
| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |

Subzone 3b: the waters of La Push to the north side of the entrance to Grays Harbor

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------------------------|--|
| 3 | Overflight assessment | |
| 6 | 4X the largest vessel | 3% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 3% (not to exceed 12,000 bbls/24 hr) |
| 15 | 40,000 feet | 3% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 8% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 14% (not to exceed 60,000 bbls/24 hr) |

Subzone 3C: the waters of Grays Harbor and Willapa Bay

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------------------------|--|
| 2 | 4 X largest vessel | |
| 6 | 10,000 feet | 2% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 5% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 12% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as | 17% (not to exceed |

| | | |
|--|-------------------|--------------------|
| | response dictates | 60,000 bbls/24 hr) |
|--|-------------------|--------------------|

Subzone 3D: The north side of the Grays Harbor entrance to Clatsop Point at the mouth of Columbia River

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------------------------|--|
| 3 | Overflight assessment | |
| 6 | 4X the largest vessel | 3% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 3% (not to exceed 12,000 bbls/24 hr) |
| 15 | 40,000 feet | 3% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 8% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 14% (not to exceed 60,000 bbls/24 hr) |

WAC 173-181-060 Vessel Planning standards for Zone 4

This zone includes the Columbia River and the Snake River. This area is further divided into 6 subzones.

Subzone A is the Pacific Ocean to River Mile 40 at Bugby Hole.

Subzone B is River Mile 40 to River Mile 85 at St. Helens, Oregon.

Subzone C is River Mile 85 to Bonneville Dam.

Subzone D is Bonneville Dam to the Snake River.

Subzone E is the Upper Columbia River.

Subzone F is the Snake River.

For all subzones,

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--------------------------------------|--|
| 2 | 4X largest vessel | None |
| 6 | 10,000 feet | 2% (not to exceed 12,000 bbls/24 hr) |
| 12 | 40,000 feet | 5% (not to exceed 36,000 bbls/24 hr) |
| 24 | Additional boom as response dictates | 12% (not to exceed 48,000 bbls/24 hr) |
| 48 | Additional boom as response dictates | 17% (not to exceed 60,000 bbls/24 hr) |

WAC 173-181- Planning Standards For Coastal Vessel terminals

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--|--|
| 1 | Initial deployment (at or near dock) of boom 4x length of largest vessel that transfers at the facility (or largest combination of vessels if there are simultaneous transfers at the facility). This boom must be kept on site (or on adjacent property) and dedicated to the facility. | |
| 2 | Initial deployment must be completed. An additional 4X the length of the largest vessel, or combined vessel lengths, must be available at the facility. | |
| 6 | | Capacity to recover 10% of worst case spill volume (or 12,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 12 | Boom on site in greater amount of: for persistent oil, a) 30,000 feet or b) Length needed to protect all priority shorelines that will likely be affected in first 24 hrs or for Non-persistent oil, 10,000 feet | Capacity to recover 15% of worst case spill volume (or 36,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 24 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 20% of worst case spill volume (or 48,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 48 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 25% of worst case spill volume (or 60,000 bbls, whichever is less) within 24 hour period could have arrived on scene |

WAC 173-181- Planning Standards For a River Vessel terminal

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|--|--|
| 1 | Initial deployment (at or near dock) of boom 4x length of largest vessel that transfers at the facility (or largest combination of vessels if there are simultaneous transfers at the facility). This boom must be | None |

| | | |
|----|--|--|
| | kept on site (or on adjacent property) and dedicated to the facility. | |
| 2 | Initial deployment must be completed. An additional four times the length of the largest vessel, or combined vessel lengths, must be available at that facility. | None |
| 6 | | Capacity to recover 10% of worst case spill volume (or 12,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 12 | Boom on site in greater amount of: for persistent oil, a) 30,000 feet or b) Length needed to protect all priority shorelines that will likely be affected in first 24 hrs or for non-persistent oil, 10,000 feet | Capacity to recover 15% of worst case spill volume (or 36,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 24 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 20% of worst case spill volume (or 48,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 48 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 25% of worst case spill volume (or 60,000 bbls, whichever is less) within 24 hour period could have arrived on scene |

WAC 173-181 - Planning Standards for Transmission Pipelines and Pipeline Tank Farms

The plan must identify by WRIA, state surface waters with the potential to be impacted by a spill from the pipeline. To determine the initial booming requirements, select the widest stream within the WRIA. Determine the average river speed at this location. Use the following angles for the river speeds:

| | |
|-------|------------|
| 2 kts | 20 degrees |
| 3 kts | 13 degrees |
| 5 kts | 9 degrees |

The following formula will be used to determine boom length: $c = 2[(a/\sin A) + [(a/\sin A)/50]*4$

Where

c = the total length of boom required in feet

a = width of the river at the widest point in feet

A = angle of the boom to shore according to the above table

In faster water the boom sections must be 50 feet and each section must overlap 2 feet on each end with adjoining sections. A primary strategy must be backed up with the equivalent strategy to ensure no oil passes.

2 doubles the strategy for the back up

50 divides the length into 50 foot segments

4 accounts for the overlap for each 50 foot section of boom

or alternatively, the facility must have 2,000 feet of boom by hour 2.

| Time (hours) | Boom/Assessment | Oil Recovery Rate % of WCS volume per 24 hours |
|--------------|---|--|
| 1 | | |
| 2 | Begin deployment of boom at the source or downstream of the source. Boom required for the 2 hour standard must be dedicated to the facility and may be staged in various locations along the pipeline | |
| 6 | | Capacity to recover 10% of worst case spill volume (or 12,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 12 | Boom on site in greater amount of: a) 30,000 feet or b) Length needed to protect all priority shorelines that will likely be affected in first 24 hrs (Persistent oil) or 10,000 feet for non-persistent oil | Capacity to recover 15% of worst case spill volume (or 36,000 bbls, whichever is less) within 24 hour period could have arrived on scene |

| | | |
|----|---|--|
| 24 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 20% of worst case spill volume (or 48,000 bbls, whichever is less) within 24 hour period could have arrived on scene |
| 48 | Sensitive areas protected by sufficient types and amounts of boom | Capacity to recover 25% of worst case spill volume (or 60,000 bbls, whichever is less) within 24 hour period could have arrived on scene |

WAC 173-181- Planning Standard for Storage, Plan requirements for Storage and Disposal

(1) Each plan holder must provide information in the plan for the tracking, interim storage and permanent disposal of the oil and combined oily waste material potentially created during a spill response. Criteria identified in the NWACP's Disposal Plan section must be addressed.

(2) The plan must commit that waste generated during spills will be tracked and a report provided to Ecology post spill.

(3) Interim Storage standards. (a) Plan holders must describe measures to ensure on-water and shoreside interim storage will be available. Each plan must describe site criteria and methods to be used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including sites available within a facility. May reference the NWACP model Disposal Plan.

(b) If use of interim storage sites will require approval by local, state or federal officials, the plan must include information that could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.

(c) Interim disposal methods, sites and equipment must be sufficient to sustain oil recovery operations and manage the entire volume of oil recovered and oily wastes generated. As a planning standard, interim storage capacity must be equal to three times the effective daily recovery capacity (EDRC) of the equipment used to achieve the recovery percentages or volumes given in the planning standards. Fixed tanks ashore can be identified to meet 35% of storage requirements, if the plan holders can demonstrate that recovered oil can be transported to the fixed tanks ashore.

(3) Permanent Disposal Standards. Each plan shall describe methods and sites used for permanent disposal of oil recovered and oily wastes generated during response and cleanup operations. Permanent disposal methods, sites and equipment must be sufficient to sustain oil recovery operations and manage the entire volume of oil recovered and oily wastes generated. All disposal plans should address the criteria identified in Section 6 of the NWACP'S Guidance and Model Disposal Plan. Permanent disposal methods and sites shall comply with all applicable local, state and federal requirements.

WAC 173-181-063 Shoreline cleanup Planning Standards

As a planning standard, each plan must identify, and ensure availability of the equipment resources, appropriate to the scope of the plan, to protect and clean three miles of shoreline and support 100 people for three days within 6 hours of a spill. Resources must be appropriate to the shoreline areas that could be impacted within the scope of the plan.

WAC 173-181-064 Effective Daily Recovery Capacity Determined for plan review

When evaluating contingency plans and applying the planning standards, Ecology will determine an effective daily recovery capacity of oil recovery devices in order to consider potential limitations due to available daylight, weather, sea state, oil encounter rate, interim storage associated with the recovery device and percentage of emulsified oil in the recovered material. When calculating the EDRC, the formula $R=T \times 24 \text{ hours} \times E$ will be used.

R=Effective daily recovery capacity

T=Throughput rate in barrels per hour (nameplate capacity)

E=20 percent (efficiency factor). Ecology may assign a lower or higher efficiency factor if it determines that such a change is warranted.

Equipment owners may request an alternative EDRC by providing the following information:

- (a) A description of the recovery system which includes skimmer, boom, pump, workboats, and storage associated with the device.
- (b) Description of deployment methods that will be used to enhance the recovery system to maximize oil encounter rate during spills.
- (c) Documented performance during verified spill events, and
- (d) Documentation of laboratory testing using ASTM standard methods (ASTM F 631-80) or equivalent test approved by the U.S. Coast Guard.

The following formula will be used to calculate the effective daily recovery capacity for this alternative approach:

$R = D \times U$

R- Effective daily recovery capacity

D – Average Oil Recovery Throughput Rate in barrels per hour

U=10 (hours of operation). 10 hours is used for potential limitations due to available daylight, weather, sea state, and percentage of emulsified oil in the recovered material.

Alternative EDRC standards are approved for three years.

WAC 173- 181-065 Other considerations for plan review (1) Planning standards will be evaluated subject to these conditions:

- (a) Although plan holders are encouraged to retain other spill response contractors, only Ecology approved primary response contractor resources, plan holder owned resources and resources guaranteed through written mutual aid agreements shall be counted when calculating the planning standards.
- (b) A plan may only count equipment that is appropriate for the operating environment within the geographic area defined in the plan. When reviewing plans, Ecology will use data from sources such as the World Catalogue, manufacturer's recommendations, the Regional Response list, the Federal OSRO guidelines, the Oil Field Operations Guide (FOG) resource typing guidelines and drills and spills to make approval and verification determinations on operating environments.
- (c) Only dedicated resources will count towards the 1, 2 and 6 hour planning standards. Non-dedicated storage resources must exist in quantities equal to twice what the planning standards require.
- (d) For portable skimming systems, response vessels must be identified, either by name if dedicated, or by describing the procedure to be used to locate vessels of opportunity if non-

dedicated. Reference may be made to the PRC application if a recovery system is fully described in the application.

(e) For a vacuum truck to receive recovery credit, 300 feet of containment boom and a skimmer head device is required. Unless vacuum trucks are identified as a dedicated asset, they can only be counted towards 45% of the plan holder's interim storage needs.

WAC 173-181 Mobilization and response times (1) Planning standards are analyzed to determine whether the plan holder can move equipment and people from the staging location to the facility or the vessel planning zone within defined time periods. When computing planning standard calculations, plan holders will include in the analysis time for notification, mobilization of equipment and personnel. The time needed for a resource to move from its staging site is the sum of the notification, mobilization, and travel times.

(2) Since non-dedicated resources may not be available to respond immediately, a plan holder must assign longer notification/mobilization times to these resources to account for their possible non-availability.

Owned/Dedicated with personnel on site mobilization equals .5 hours.

Under Contract/Dedicated but not on-site, mobilization equals 1.5 hours.

Owned/Nondedicated, mobilization equals 2.5

Under Contract/Nondedicated, mobilization equals 2.5

Not under Contract/Nondedicated, mobilization equals 3 hours

(3) Travel times are computed using standard speeds and the highway or water distance between the equipment location and

(a) the facility or

(b) for vessels, the specified planning points within the planning zones.

Travel speeds of 35 miles per hour (mph) for land and 5 knots (kts) for water are used for equipment travel times. Ecology will use standard nautical charts and street maps and available on-line mapping programs to determine distances. The distance is divided by the speed to determine the travel time:

Travel time = Distance between facility site or vessel planning point/35 mph or 5 knots

Plan holders may request approval for alternative standards (notification, mobilization, and travel time) by providing documentation to justify the request, such as actual performance during spills or drills. The request must include date and time of performance or test, weather/sea state conditions, and road conditions. If Ecology accepts these alternative response times, then these response times will be tested in unannounced drills to verify alternative calculations.

For vessel plans, these planning points will be used to analyze the planning standards.

| | Initial | Planning Point |
|--------|---------------------------------------|---|
| Zone 1 | Staging/storing location of equipment | Southern end (Point Defiance), center (Foulweather Bluff and Smith Island) and northern end of zone (Point Lawrence). |

| | | |
|--------|---------------------------------------|--|
| Zone 2 | Staging/storing location of equipment | Ediz Hook, Seiku, Duntz Rock |
| Zone 3 | Staging/storing location of equipment | Center point of each subzone and entrances to Columbia River, Puget Sound. |
| Zone 4 | Staging/storing location of equipment | Center of each subzone |

WAC 173-181-065 Alternative method of evaluating planning standards

A plan holder may request that Ecology approve a plan based on alternative planning standards. The request must be supported by a detailed analysis that fully supports the methodology proposed. Alternative planning standards proposed by a plan submitter must be consistent with regional goals. A decision made by Ecology may be appealed. Plan holders must defend an appeal of a decision to approve alternative standards.

WAC 173-181-080 Plan updates (1) Each plan shall describe the procedures and time periods to update the plan and the distribution of the plan to affected and interested parties.

(2) Ecology shall be notified in writing as soon as possible and within twenty-four hours of any significant change which could affect implementation of the plan, including a substantial decrease in available spill response equipment or trained personnel. The plan holder shall also provide a schedule for the prompt return of the plan to full operational status. A facsimile will be considered written notice for the purposes of this subsection. Within thirty calendar days of a permanent significant change, the plan holder shall distribute the amended page(s) of the plan. Changes which are considered significant include loss of equipment that affect the planning standard matrix provided in the plan, or personnel listed in ICS positions provided in the plan or changes in normal operating procedures. Failure to notify the department of significant changes shall be considered noncompliance with this chapter and subject to provisions of WAC

(3) If Ecology finds that, as a result of the change, the plan no longer meets approval criteria, Ecology may place conditions on approval or revoke approval of the plan.

WAC 173-181- Ecology Plan Review (1) Plans shall be reviewed by Ecology every five years. New plans shall be submitted for reapproval unless the plan holder submits a letter requesting that the office review the plan already in the office's possession. Ecology shall endeavor to review each plan in sixty-five calendar days.

Three copies of the plan and all appendices must be submitted. Use of electronic copies of plans is encouraged, although it is necessary to submit at least one paper copy. The plans shall be delivered to:

Department of Ecology
Spill Prevention, Preparedness, and Response Program
Preparedness Section, Contingency Plan Review

Mailing Address:

PO Box 47600
Olympia, WA 98504-7600

Physical Address:
300 Desmond Drive
Lacey, WA 98503

Upon receipt of a plan, Ecology shall evaluate promptly whether the plan is incomplete. If the plan is incomplete, the plan holder shall be notified of deficiencies. The review period does not begin until a complete plan is received.

(2) Ecology will regularly notify interested parties of contingency plans which are under review, and make plans available for review to state, local, and federal agencies, and the public. Comments on the plans will be accepted during the first thirty calendar days of review.

(3) Ecology will prepare a manual to aid office staff responsible for plan review and to provide guidance for plan preparers. While the manual would be used as a tool to conduct review of a plan, the office will not be bound by the contents of such a manual.

(4) Ecology shall endeavor to notify the plan holder within five working days after the review is completed whether the plan has been approved.

(a) If the plan is approved, the plan holder receives a certificate of approval describing the terms of approval, including expiration dates.

(b)(i) Ecology may approve a plan conditionally by requiring a plan holder to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.

(ii) Precautionary measures may include, but are not limited to, additional information for the plan, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response equipment.

(iii) A plan holder shall have thirty calendar days after Ecology gives notification of conditional status to submit and implement required changes to the office, with the option for an extension at the office's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed shall lose conditional approval status.

(c) If plan approval is denied, the plan holder shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The plan holder shall not continue oil storage, transfer, or other operations until a plan for that vessel has been approved.

(d) A plan holder shall have thirty calendar days from the date of the notice of nonapproval to appeal Ecology's decision.

[Statutory Authority: ESHB 1027. 91-22-086, § 317-10-065, filed 11/5/91, effective 1/1/92.]

WAC 173-181 Post Spill or Drill Reviews

Each plan shall explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures shall include a debrief with Ecology and other participating agencies and organizations.

After spills and drills, Ecology will review a plan and provide recommendations or requirements for updates.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-080, filed 11/5/91, effective 12/6/91.]

Part Three

WAC 173-181-070 Testing the plan through drills

(1) Plan holders will participate in a drill program for the purpose of ensuring that all contingency plan components function to provide, to the maximum extent practicable, prompt and proper removal of oil and minimization of environmental damage from a variety of spill sizes, including small chronic spills, and worst case spills. The plan must describe the drill program. Ecology is adopting a modified triennial cycle for drills as found in the National Preparedness for Response Drill Program (PREP). During the triennial cycle, each component of the response plan must be successfully tested at least once.

(2) Ecology shall be provided an opportunity to evaluate all tabletop and deployment drills, including industry led unannounced tabletop and deployment drills. To ensure this, plan holders will schedule tabletop and equipment deployment drills on the Northwest Area Committee Exercise Schedule. Scheduling requirements are noted in the table below.

(3) Ecology will provide a written drill evaluation report for tabletop and deployment drills to the plan holder. Credit will be granted for drill objectives that are successfully met. Objectives that are not successfully met must be tested again and successfully demonstrated during the triennial cycle. Plan holders and PRCs will self-certify all other types of drills. Self-certification documentation must be kept for at least 3 years and Ecology may inspect the documentation during site visits or drills.

WAC 173-181-071 Type and frequency of drills. In the triennial cycle, the following drills must be conducted.

| Type of Drills | Frequency | Exemptions/Special Instructions | Ecology Evaluation or Self Certification | Scheduling with Ecology |
|---------------------------------------|------------------------------------|---|--|------------------------------|
| Internal Call Out Procedure Drills | 12-done one per quarter | This drill will include notification of all key spill management team members, including ICS Command and General staff. | Self Certification | Unscheduled |
| Vessel Emergency Procedure drills | 12- done one per quarter | Unmanned barges and vessel umbrella plan holders that cover multiple companies are exempt from this requirement. | Self Certification | Unscheduled |
| Facility Emergency Procedure drills | 3 – one in each year of the cycle; | This drill is only required for facilities once in a triennial cycle, and may be combined with a tabletop or deployment exercise. | Self Certification | Unscheduled |
| Spill Management Team tabletop Drills | 3 -one in each year of the cycle; | One of the three must involve a worst case discharge scenario. | Ecology Evaluation | Scheduled 60 days in advance |

| Type of Drills | Frequency | Exemptions/Special Instructions | Ecology Evaluation or Self Certification | Scheduling with Ecology |
|--|---|--|--|--|
| Deployment Drills | 6 -done two per year | | Ecology Evaluation | Scheduled 30 days in advance |
| Industry Initiated Unannounced Drills | 3 –done one per year | This is not an additional drill. Any of the above listed drills, with the exception of the internal notification drill, if conducted unannounced, would satisfy this requirement; | Ecology Evaluated if Tabletop or Deployment drill. If emergency procedures drill then self-certify | Tabletop 60 days in advance deployment 30 days in advance (these drills will not appear on drill calendar) |
| Ecology initiated unannounced Deployment and Tabletop drills | No more than once every cycle for plan holders. | This drill may involve testing any component of the plan, including deployment of personnel, boom, recovery and storage equipment. | Ecology Evaluation | No-notice, though when possible, notice may be given that the drill will take place sometime in a 30 day window. |

| Type of Drills | Frequency | Exemptions/Special Instructions | Ecology Evaluation or Self Certification | Scheduling with Ecology |
|--|-----------|--|--|-------------------------|
| Ecology Initiated Unannounced Vessel Notification Drills (on-board vessel) | random | This drill is intended to ensure that the plan holder is capable of following the notification procedures in the plan. | Ecology Evaluation | No-notice. |

(2) Internal Call Out Procedure Drills: These drills need not be scheduled with Ecology and Ecology will only evaluate them if this drill is conducted as part of an Ecology initiated unannounced drill. This drill must include notification of all key spill management team members, including command and general staff depicted in the plan holders' oil spill contingency plan. This drill is intended to test the callout list and verify accuracy of phone numbers.

(1) Vessel Emergency Procedures Drills: These drills need not be scheduled with Ecology and Ecology will only evaluate them if this drill is conducted as part of an Ecology initiated unannounced drill. The purpose of the emergency procedures drill is to ensure that personnel are capable of conducting the initial

actions necessary to minimize the effects of a spill. For vessel plan holders, credit for this requirement can be met with out-of-state drills.

- (2) **Facility Emergency Procedures Drills: These drills need not be scheduled with Ecology. Ecology will only evaluate them if this drill is conducted as part of a Tabletop Drill, a Deployment Drill or an Ecology initiated unannounced drill.** The purpose of the emergency procedures drill is to ensure that personnel are capable of conducting the initial actions necessary to minimize the effects of a spill
- (3) **Table-tops drills: These drills must be scheduled 60 days in advance with Ecology and will be evaluated.** During table-top drills, the plan must be utilized to ensure the spill management team is familiar with the plan and is able to use it effectively to conduct a spill response. The plan holder must ensure that away team members are trained on the Contingency Plan approved by Ecology, the NWACP and the use of the GRP's in Washington. Regional/National ("away") response team members as identified in the contingency plan must be mobilized in state once during the triennial cycle. However, if Ecology is given sufficient advance notice and opportunity to participate in out-of-state tabletop drills with away team members, and that the out of state drills are of similar scope and scale to what would have occurred in state, then the away teams may only need to drill in this state once every five years.
- (4) **Vessel and Facility Plan Holder-led Equipment deployment drills: These drills must be scheduled 30 days in advance with Ecology and will be evaluated.**
 - (a) Equipment deployment drills will be used to validate that the equipment is in good operating condition, is appropriate for the operating environment in which it is intended to be used, that operating personnel are trained and capable of its deployment and operation, and that equipment and personnel subcontracted for are available. Deployment drills must include a combination of owned and contracted assets.
 - (b) Plan holders should ensure that each type of equipment listed in the plan and all personnel responsible for operating the equipment are tested during the triennial cycle. This includes equipment for each operating environment included in the scope of the plan, such as containment boom, work boats, hoses, piping, pumps, support vessels, recovery systems, interim storage devices, and other equipment relied on in the plan.
 - (c) Once during the triennial cycle plan holders must complete the deployment of the one or two hour response standards.
 - (d) Once during the triennial cycle plan holders must deploy equipment up to the 6 hour planning standards (will involve recovery), and
 - (e) At least once a year, plan holders must deploy GRP strategies identified within the scope of the plan. Where no GRP's exist, plan holders will work with Ecology to determine alternative sensitive areas to protect and practice booming them. Plan holders may receive credit for GRP deployment drills conducted by PRCs if the PRC is listed in the plan, if the plan holder operates in the area, if the GRP deployed is within the scope of the plan.

(6) Vessel plan holders may agree to participate in Ecology's unannounced deployment drill program in lieu of scheduling and participating in section 4 above. An unannounced deployment drill will be required no more than once a year, and these drills may be initiated in various operating environments applicable to the vessel operations. Ecology will consider applying credit for the drill to all plan holders who operate in that area and have access to the PRCs participating in the drill.

(5) **Industry-led Unannounced Deployment and Tabletop drills: This is not an additional drill requirement.** If this drill is a tabletop or deployment, it must be scheduled with Ecology in order to be evaluated, but will not appear on the drill calendar in order to maintain the unannounced element.

(6) **Ecology-led Unannounced Deployment and Tabletop drills: Some advance notice may be given and Ecology will evaluate these drills.** Ecology may call for unannounced table-top and deployment drills for plan holders to ensure plan holder readiness. This drill may involve deployment of personnel, boom, recovery and storage equipment, and testing notifications, establishment and staffing of a command post and other components of the plan. At the start of the unannounced drill, plan holders will be notified of the drill objectives, expectations and scenario. Plan holders may request to be excused from this drill if conducting the drill poses an unreasonable safety or environmental risk, or significant economic hardship.

(7) **Ecology Initiated Unannounced Vessel Notification Drills: There will be no advance notice of these, and they will be evaluated by Ecology.** Unannounced Notification Drills require vessel crews to demonstrate their ability to properly notify the National Response Center, the Washington State Emergency Management Division, and the vessel's primary response contractor. The vessel crew must follow the notification scheme in the plan to get credit for this drill. These drills will be brief and will end as soon as the previously mentioned agencies and organizations are contacted (or simulated).

WAC 173-181-072 Drill Evaluation Criteria

The PREP Guidance document lists 15 core components that must be demonstrated during the triennial cycle. Ecology adopts the 15 core components as the criteria used to evaluate drills. The core components are as follows:

1. **Notifications:** Test the notifications procedures identified in the plan.
2. **Staff Mobilization:** Demonstrate the ability to assemble the spill response organization identified in the plan.
3. **Ability to Operate Within the Response Management System Described in the Plan.** This includes demonstration of the ICS staffing and process identified in the plan.
4. **Source Control:** Demonstrate the ability of the spill response organization to control and stop the discharge at the source.

5. **Assessment:** Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge and provide continuing assessments of the effectiveness of the tactical operations.
6. **Containment:** Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations.
7. **Recovery:** Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. Includes mitigation and removal activities, e.g. dispersant use, ISB use, and bioremediation use.
8. **Protection:** Demonstrate the ability of the spill response organization to protect the environmentally and economically sensitive areas identified in the NWACP and the plan.
9. **Disposal:** Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris in compliance with guidance found in the NWACP.
10. **Communications:** Demonstrate the ability to establish an effective communications system throughout the scope of the plan for the spill response organization.
11. **Transportation:** Demonstrate the ability to provide effective multi-mode transportation both for execution of the discharge and support functions.
12. **Personnel Support:** Demonstrate the ability to provide the necessary logistical support of all personnel associated with the response.
13. **Equipment Maintenance and Support:** Demonstrate the ability to maintain and support all equipment associated with the response.
14. **Procurement:** Demonstrate the ability to establish an effective procurement system.
15. **Documentation:** Demonstrate the ability of the spill response organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken

WAC 173-181-073 Alternative Drill Credit

- (1) Plan holders may request drill credit for response to actual spills, provided that Ecology is involved in participation, review, and evaluation of the spill response. Request for credit should be made in writing to Ecology. Credit from spills may not alleviate the plan holders' responsibility to drill entirely. Credit will be given to the degree that the spill incident successfully tests the plan.

A written request to Ecology must be made within 60 days of the spill. The request should include documentation supporting the components of WAC? (Drill evaluation criteria). Plan holders should submit a lessons learned summary with the request for drill credit.

- (2) Plan holders may request drill credit for out-of-state tabletop drills if:
 - (a) Ecology has been invited with the appropriate prior notice to attend the drill; and
 - (b) The objectives and evaluation criteria used to self certify the drill meet or exceed Washington's standards; and
 - (c) The plan holder has one response plan for a number of facilities or a fleet of vessels.

Plan holders seeking credit for a scheduled out of state drill must notify Ecology in writing 90 days in advance, to provide Ecology an opportunity to attend. There must be a meeting to discuss the scope and scale of the exercise, the drill objectives and the types of criteria for which Washington credit may be applicable.

WAC 173-181-07? Drill Waivers

Plan holders may request a waiver for any of these drill requirements. The request must be in writing and must describe why a waiver should be considered. Ecology will evaluate the request and respond in writing within thirty calendar days of receipt of the letter. No approval will be given unless Ecology determines that the plan holder is meeting the purpose and intent of the drill program.

WAC 173-181-07? Drill evaluations

Ecology will provide a written evaluation to the plan holder of the drill results within thirty calendar days but no later than sixty calendar days following the drill. If Ecology finds deficiencies in the plan, Ecology shall include in the written report those deficiencies to the plan holder and may require that the plan holder make specific amendments to the plan. Ecology may also require the plan holder to participate in additional drills beyond those required this section. A plan holder may request an informal review of the Ecology drill evaluation or spill evaluation within 30 days of receipt of the evaluation.

Ecology shall publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes, and industry response to those recommendations.

Part Four

WAC 173-181-090 Contractor standards. (1) Primary response contractors listed in a vessel or facility contingency plan must be approved by Ecology. Subcontractors listed in PRC applications do not need approval but must be identified and their equipment and personnel must be included in the PRC application.

(2) A PRC must be capable of initiating response efforts within one hour of call-out.

(3) Equipment, equipment maintenance, deployment and personnel readiness must be verifiable by Ecology inspection. Any resources not on site at the time of an inspection must be accounted for by company records.

(4) When reviewing applications, Ecology will use data from sources such as the World Catalogue, manufacturer's recommendations, the Regional Response list, the Federal OSRO guidelines, the Oil Field Operations Guide (FOG) resource typing guidelines to make approval and verification determinations.

WAC 173-181-092 Contractor Approval General Information Required

The following basic identification and organizational information is required in an application:

(1) The PRC's name, UBI number, contact person, mailing and physical address, physical address of all equipment locations, facsimile and telephone numbers, and email address;

(2) A list of subcontractors, contact persons, mailing and physical addresses, facsimile and telephone numbers, and email addresses;

(3) A list of the regulated plan holders to whom the PRC is contracted with or obligated to, including a list of the vessel planning zones that the PRC provides contracted coverage for;

(4) A call-out list that provides for 24 hour contact for spill response personnel, including name and position title. The list should establish a clear order of priority for notification. The list should also cite the name of a central reporting office or individual who is responsible for implementing the call out process. In the PRC application, it is not necessary to include personal information such as phone numbers. That information should be maintained by the PRC and made available to Ecology upon request.

(5) A statement of commitment to initiating response efforts within one hour of call-out.

(6) A list of all OSHA/WISHA citations and reports, lost-time accidents, and accident claims related to oil spill response operations for the last five years. Any applicant with less than five years under their current business name or organization shall provide a listing of any oil spill response contract businesses owned or operated by the principals in the new company within the last five years, including a brief description of the companies and their safety history information listed above. Determination of an acceptable safety history is made by review of pertinent records on a case-by-case, best-professional-judgment basis. Lack of a safety history will not be grounds for denying approval.

WAC 173-181-093 Contractor Approval Equipment Information Required

Only equipment that is in fully operable condition may be listed in an application. For all equipment that is listed, the PRC application should identify whether the equipment is company owned or subcontracted, and dedicated or non-dedicated. If a PRC maintains an equipment list on the regional response list website, the PRC may use and include that list to meet the following requirements.

(a) Boom: for each location, list the total lengths of boom (in feet), manufacturer's name, model, freeboard, and draft.

(b) Oil Recovery Equipment: for each type of oil recovery device for each location, state the manufacturer's name and model; the minimum crew requirements; and the nameplate capacity.

(c) Temporary storage devices: for storage not already listed, state the types of temporary storage devices by location including vessel name, minimum crew requirements, and maximum capacity in barrels.

(d) Work boats (excluding vessels listed above): provide the vessel name, minimum crew requirements, length, vessel type by design; horsepower; amount of boom on board plus other assets that would be applicable to oil spill response (e.g., crane, outriggers, etc.)

(e) Communication Systems: describe the communications systems used for daily activities and oil spill responses, including radios and other communication equipment, the frequencies used, and geographical ranges of each system.

(f) Wildlife Rescue and Rehabilitation Resources: list the types and locations of equipment used for wildlife rescue and rehabilitation.

(g) Shoreline Cleanup: list the types and locations of equipment used for shoreline cleanup, if not already listed above.

(h) Other Response Technology Systems such as in-situ burn, dispersants, bioremediants and other chemical agents: list the types and locations of equipment available and include an operations plan describing how the technology will be deployed and monitored.

(i) If applicable, include information on these additional resources, either owned or on contract, and the methods for acquiring non-contracted assets during a spill event

(a) Remote sensing equipment.

(b) Aircraft (fixed and rotary wing).

(c) Surveillance resources to detect and track the extent and movement of oil.

(d) Oiled debris handling resources such as earth removal equipment, dump trucks and earth moving equipment.

The PRC must describe their inspections and maintenance program. The inspections and maintenance must be documented and the records maintained for 3 years. The location of the records must be noted in the application, and all records must be available for review during verification inspections conducted by Ecology.

WAC 173-181-094 Contractor Approval Personnel Information Required

(1) Include a list of response personnel and indicate whether they are full time or part-time employees, or subcontracted personnel.

(2) List of essential core training that response staff receives. The following categories of training should be included as applicable; safety training, operation of response equipment, emergency response training standards as defined in WAC 296-824-300, Incident Command System, Geographic Response Plan, NWACP and training on other response technology resources. Documentation of training and qualifications shall be maintained by the PRC for three years and made available to Ecology upon request.

(3) For shoreline cleanup personnel, the application shall describe the plan for mobilization of personnel including cascading additional personnel, the training if necessary and estimated time of mobilization.

WAC 173-181-094 Systems Approach

Equipment may be broken into any necessary configuration during an actual spill or drill, but for the purposes of evaluation and plan analysis, the applicant shall submit in a narrative format a description of the systems approach for oil recovery. There is an exception to this requirement if the equipment is listed in this manner on the regional response list.

For all skimmers, describe how the device is intended to be transported and deployed. List the boom and work boats associated with each skimming system. Identify the pumps and pumping capacity that will be used to transfer product to storage devices. For all oil recovery systems that rely on a vessel of opportunity or non-dedicated transport asset, include a statement on how the transport equipment would be located and secured.

Describe how skimming operations will be enhanced to increase encounter rate with oil.

Describe the oil storage associated with each recovery system. State the storage capacity integral to the oil recovery system, if applicable. Describe how recovered oil is to be transported to/from interim storage.

Note: if Vacuum truck or pump is part of a system it must have a skimmer device associated with it.

WAC 173-181-094 Submittal of contractor applications.

PRC applications must be delivered to:

Washington Department of Ecology
Spill Preparedness Section, Response Contractor Approval
P.O. Box 47600
Olympia, WA 98504-7600

2. Once an application is received, Ecology will review the application for completeness. If the department determines that an application is incomplete, the submitter shall be notified of deficiencies in writing and given a time period for submitting the missing information. The forty-five day review period shall begin when the application is complete. (2) An application shall be approved if it meets the conditions specified in WAC .

(3) The department shall endeavor to notify the applicant that the application has been approved/not approved within five working days after the review is completed. An on-site inspection to verify equipment and personnel readiness will be conducted once the application is approved.

During the inspection, Ecology may inspect training, maintenance and drill records, request a short test of the call-out procedures, and require operation of a representative sample of the equipment listed in the application. Inspections may be conducted at any/all equipment locations.

(a) If the application is approved, the contractor shall receive a certificate of approval describing the terms of approval, including expiration dates, EDRC of the recovery systems. WAC 173-181-? Contains a description of how derated capacities will be determined, and the process for requesting an alternative calculation.

(b) If the application is not approved, the contractor shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The contractor may not act as a primary response contractor for a facility contingency plan until approved by the department.

(c) Approval of a response contractor by the department does not constitute an express assurance regarding the adequacy of the contractor nor constitute a defense to liability imposed under state law.

(d) Primary response contractor approvals will be reviewed by Ecology every three years. Applications must be resubmitted 45 calendar days in advance of the approval expiration date. Ecology will notify PRCs of pending expiration dates.

WAC 173-181-096 Significant Changes Require Notification

(1) The PRC is responsible to provide written notification to Ecology and regulated plan holders to whom they are obligated, as soon as possible or no longer than within twenty-four hours of

any significant change in the information reported in the approved application. The notice shall include the identification of backup resources sufficient to maintain the PRC readiness level, and the estimated date that the original equipment shall be back in full service. Examples of significant changes include a substantial change in equipment ownership, a 10 % or greater increase or decrease in available spill response equipment, or a loss of key field or command post personnel. Notification by facsimile or email will be considered written notice for the purposes of this subsection.

Failure to notify of significant changes could affect the approval conditions of the PRC. Failure to report changes could result in the loss of PRC approval could affect the approval conditions of the PRC.

(2) If Ecology determines that PRC approval conditions are no longer met, approval may be revoked or conditionally modified. The PRC will receive a written notice of the loss of approval or conditional modifications and a time period to either appeal or correct the deficiency. [Statutory Authority: ESHB 1027. 91-22-086, § 317-10-070, filed 11/5/91, effective 1/1/92. & RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-070, filed 11/5/91, effective 12/6/91.]

Part Five

WAC 173-181 Inspections

Ecology may verify compliance with this chapter by unannounced inspections. These inspections will be used to verify training records, equipment maintenance, spot-checks for staff training on the use of the field document and the contingency plan, verification of quarterly notification drills, call down lists and other issues as deemed appropriate by Ecology.

WAC 173-181-085 Noncompliance with plan requirements.

(1) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, Ecology may, at its discretion:

- (i) Place conditions on approval pursuant to (b) of this subsection; or
- (ii) Revoke its approval pursuant to (c) of this subsection.

(f) Approval of a plan by the office does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.

(2) Any violation of this chapter may be subject to the enforcement and penalty sanctions of RCW 90.48.376 as recodified by section 1115, chapter 200, Laws of 1991.

(2) Ecology may deny entry onto the waters of the state to any covered vessel that does not have an approved plan and is so required.

(3) Ecology may notify the secretary of state to suspend the business license of any facility or other person that is in violation of this section.

(4) The department may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a covered vessel, facility or person is in violation of this section shall be considered a separate violation.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-085, filed 11/5/91, effective 12/6/91.]

WAC 173-181-085 Operation without plan

(1) A covered vessel may not enter or operate on the waters of the state without an approved, or conditionally approved, contingency plan. There is an exception if the covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress. The owner or operator of a regulated facility may not operate without an approved, or conditionally approved plan, nor transfer cargo or passengers to or from a regulated vessel that does not have an approved, or conditionally approved, contingency plan. Ecology maintains a list of all approved plans.

Ecology may assess a civil penalty under RCW 43.21B.300 of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a facility or person is in violation of this section shall be considered a separate violation.

Any person found guilty of willfully violating any of the provisions of this chapter, or any final written orders or directive of Ecology or a court in pursuance thereof shall be deemed guilty of a gross misdemeanor, as provided in chapter 9A.20 RCW, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court. Each day upon which a willful violation of the provisions of this chapter occurs may be deemed a separate and additional violation.

[2000 c 69 § 8; 1992 c 73 § 22; 1991 c 200 § 421.]

WAC 173-181- Appeals

A decision made by Ecology may be appealed, including request for waivers or alternative standards, a change in plan holder or PRC approval status, or a requirement to respond to deficiencies noted during drills, e.g. a requirement to amend a plan or have another drill. The procedures for appeals are contained in Chapter 43.21B Revised Code of Washington.

WAC 173-181-098 Severability. If any provision of this chapter is held invalid, the remainder of the rule is not affected.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-098, filed 11/5/91, effective 12/6/91.]